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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,035	07/26/2001	Giovanni Bocola	1011-326	5919
47888	7590	03/14/2006	EXAMINER	
HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			HYLTON, ROBIN ANNETTE	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 03/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/890,035	<b>Applicant(s)</b> BOCOLA, GIOVANNI	
	<b>Examiner</b> Robin A. Hylton	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 21, 2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Decelles in view of Schellenbach.

Decelles teaches a product container having a container body with an open mouth and at least a covering element formed as a single piece with the container body. Decelles does not teach an annular gasket of a second material on the covering element.

Schellenbach teaches it is known to provide a container mouth covering element with a annular gasket of a second material on the covering element.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an annular gasket to the covering element of Decelles. Doing so provides a better seal between the covering element and the container mouth.

Regarding the method claims, Decelles teaches at column 5, lines 46 and 47 that the covering element **531** is made integral with the container body **560** in the embodiment illustrated in figure 11. Schellenbach teaches forming a covering element with an annular gasket by a two-component injection molding method. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a two-component injection molding method to

form an annular gasket on the covering element of Decelles. Doing so allows for forming a product container having an integrally molded covering element hinged thereto and an annular gasket on the covering element for a more effective seal between the covering element and the container mouth in a single mold.

4. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schellenbach in view of Mueller.

Schellenbach teaches a closure having an annular gasket molded onto a covering element, each of the annular gasket and the covering element being formed of different materials. Schellenbach is silent regarding a container body being formed with the covering element and hingedly attached thereto. It is to be noted that Schellenbach teaches circular ridges can be used instead of threads at column 5, lines 62-64.

Mueller teaches at column 4, lines 44-50 that it is known to form a container body (**12'**) and a covering element (**20**) in a single piece.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of forming a container body integrally with a covering element to the covering element of Schellenbach. Doing so allows for a complete product container to be formed in a single mold.

### ***Response to Arguments***

5. Applicant's arguments filed December 21, 2005 have been fully considered but they are not persuasive.

Applicant argues Decelles does not teach the cover (**531**) is integrally formed with the container body (**560**) and that the hinge is a pin hinge and cannot possibly be formed integrally with the container. Applicant's attention is directed to the disclosure at column 5, line 46 which sets forth the cover "is made integral to the container **560** itself" and lines 53-54 which set forth "this embodiment provides a one-piece container **560** having an efficient and easy-to-open

Art Unit: 3727

closure system". This disclosure clearly teaches the cover and container are integrally formed and that the hinge attaching them cannot possibly be a pin hinge, but is rather a strip hinge.

The disclosure at column 5, line 54 further indicates the assembly *may* additionally have other structure such as an outer skirt, but does not require the presence of an outer skirt. Thus, the teaching still provides the closure to be integrally attached to the container via the hinge with the container mouth being formed of a single wall.

Regarding applicant's assessment of the teaching of Mueller, the examiner disagrees for the following reasons. First, as it has been well established, applicant can be his/her own lexicographer. In the patent to Mueller, the upper most portion of the container is called a "closure base" **16**. This does not take away from the fact this structure is integrally molded with the container **12'** and with the cover portion **20** via hinge **24**.

The disclosure at column 4, lines 44-50 and column 5, lines 61-66 of Mueller clearly set forth the container **12'** is integrally formed with the cover **20** and hinge **24**. This structure in figures 5-8 is similar in appearance to figure 6 of the drawings of the instant application which also depicts a bead, or snap-fit structure, at the uppermost edge of the container mouth.

Both the containers of Decelles and Mueller teach a single mouth wall container, integrally formed hinge and cover. The combination of these references individually with the patent to Schellenbach are appropriate as set forth above and render the claims of the instant application obvious.

Applicant's arguments and newly presented claims are insufficient to overcome the rejections set forth above.

### ***Conclusion***

6. This is a continued examination of applicant's earlier Application No. 09/890,035. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been

Art Unit: 3727

entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

8. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Art Unit: 3727

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH  
March 8, 2006



Robin A. Hylton  
Primary Examiner  
GAU 3727